



C.M.A.No.3611 of 2019

WEB COPY IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 09.06.2023

CORAM

THE HONOURABLE MR. JUSTICE A.A.NAKKIRAN

C.M.A.No.3611 of 2019

1.S.Therasa

2.J.Selvaraj

... Appellants

Vs.

1.Seviyar Sagayam

2.The Managing Director,
Tamil Nadu Transport Corporation,
Bye pass road, Chettinaickenpatti Village,
Dindigul Taluk & District.

... Respondents

Prayer: Appeal filed under Section 173 of Motor Vehicles Act, 1988 against Judgment and Decree dated 08.07.2019 passed in M.C.O.P.No.145 of 2017 on the file of the Motor Accident Claim Tribunal (Subordinate Judge), Avinashi, and enhance the award amount.

For Appellants : Mr.R.Nalliyappan

For Respondents

For R1 : Dismissed

For R2 : No appearance



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J U D G M E N T

The Appeal has been filed against the Decree and Judgment dated 08.07.2019 made in M.C.O.P.No. 145 of 2017 on the file of the Motor Accident Claims Tribunal (Subordinate Judge), Avinashi.

2. The parents of the S.Arul Jenifer (since deceased) are the Appellants herein and they filed this appeal for the death of the deceased in a road traffic accident occurred on 03.08.2015, seeking enhancement of compensation awarded in M.C.O.P.No145 of 2017.

3. The factum of the accident, manner of the accident, rash and negligent driving on the part of the 1st respondent/driver of the vehicle, insured with the 2nd Respondent are not under challenge in this Appeal. Accordingly, the finding rendered by the Tribunal is hereby confirmed.

4. During the trial, on the side of the claim Petitioners, P.W.1 and P.W.2 were examined & Ex.P.1 to Ex.P.15 were marked and on the side of the Respondents, D.W.1 was examined and Ex.D1 was marked.



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5. Based on the oral and documentary evidence the Tribunal awarded compensation as follows;-

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1.	Loss of income	Rs.8,64,000/-
2.	Love and affection	Rs.40,000/-
3.	Funeral expenses	Rs.15,000/-
	<i>Total</i>	<i>Rs.9,19,000/-</i>

In total, the claim Petitioners are entitled to a sum of Rs.9,19,000/-. The interest awarded by the Tribunal at the rate of 7.5% per annum is hereby confirmed.

6. The learned counsel for the appellants submitted that the compensation awarded by the Tribunal under various heads are very meagre and he prays for enhancement of compensation.

7. Considering the facts and circumstances and on perusal of the materials placed before this Court, the compensation awarded by the Tribunal under the head loss of love and affection is enhanced to Rs.80,000/- (Rs.40,000



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+ Rs.40,000 each). The Tribunal had fixed the monthly income of the deceased at Rs.6000 per month, since the accident is of the year 2015, this Court is inclined to fix the monthly income of the deceased at Rs.12,000/- per month. Accordingly, Rs.18,14,400/- ($\text{Rs.12,000/-} \times 40\% (4,800) = \text{Rs.16800} \times 12 \times 18 \times \frac{1}{2}$) is awarded towards loss of income. The Tribunal has not awarded any amount under the head loss of estate, this Court is inclined to grant Rs.15,000/- towards loss of estate. The Tribunal awarded Rs.15,000/- funeral expenses, which appears to be just and reasonable and the same is hereby confirmed.

8. In the light of the said discussions, the modified award is as follows:

<i>S.No.</i>	<i>Head</i>	<i>Amount (Rs.)</i>
1.	Loss of income	Rs.18,14,400/- ($16,800 \times 12 \times 18 \times \frac{1}{2}$)
2.	Love and affection	Rs.80,000/- (40,000 + 40,000 each)
3.	Funeral expenses	Rs.15,000/-
4.	Loss of estate	Rs.15,000/-
	Total	Rs.19,24,400/-

Accordingly, the amount awarded by the Tribunal is enhanced from Rs.9,19,000/- to Rs.19,24,400/- together with interest at 7.5% per annum from the date of petition till the date of deposit as compensation.



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9. In fine,

(i) this Civil Miscellaneous Appeal stands partly allowed, enhancing the compensation from Rs.9,19,000/- to Rs.19,24,400/- to the extent indicated above. No Costs.

(ii) the 2nd respondent is directed to deposit the enhanced award amount, with interest and costs before the Tribunal, within a period of six (06) weeks from the date of receipt of a copy of this order.

(iii) on such deposit being made, the claim Petitioners/Appellants are entitled to get their share in the enhanced award amount, as per the ratio of apportionment made by the Tribunal. The claim Petitioners are permitted to withdraw their share with proportionate interest and costs, less the award amount already withdrawn, if any, by filing necessary application before the Tribunal. Remaining share of the claim Petitioners shall be deposited as per the order made by the tribunal.



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(iv) the claim Petitioners are directed to pay the court fee, if any, for the enhanced compensation amount and the Registry is directed to draft the decree only after the receipt of Court fee.

09.06.2023

Index : Yes/No
Internet : Yes/No
Speaking Order/Non-Speaking Order
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To
The Presiding Officer,
Motor Accident Claim Tribunal (Subordinate Judge),
Avinashi.



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A.A.NAKKIRAN.J,

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